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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,900	08/17/2005	Manfred Malle	Vinazzar 2	2982

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 FLYNN THIEL BOUTELL & TANIS, P.C.
 2026 RAMBLING ROAD
 KALAMAZOO, MI 49008-1631

EXAMINER

LUONG, VINH

ART UNIT	PAPER NUMBER
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3682

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/509,900

Applicant(s)

MALLE, MANFRED

Examiner

Vinh T. Luong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


Vinh T. Luong
Primary Examiner

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/17/05 & 9/29/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Attachment.

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1. The preliminary amendments filed on August 17, 2005 and September 29, 2004 have been entered.

2. The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office. (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609.04(a), subsection I. states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609.05(a).

Applicant's IDS filed on 29 September 2004 stated: "[m]ore specifically, FR 2 624 470 was cited in the International Search Report. A copy of this reference has presumably been provided to the USPTO." However, the copy of this reference has not been provided to the USPTO. Please see MPEP 609.

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

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The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because of the implied phrase "The invention relates to" and the legal phraseology "said." Correction is required. See MPEP § 608.01(b).

5. The drawings are objected to because the drawings are not in compliance with 37 CFR

1.84. For example:

(a) The drawings should show the plane upon which a sectional view such as FIG. 2 or 8 is taken. See 37CFR 1.84(h)(3);

(b) The view numbers must be larger than the numbers used for reference characters. 37 CFR 1.84(u)(2). However, *e.g.*, FIG. 10 shows that the view number "FIG 10" is equal dimension with the reference characters 11, 15, etc.; and

(c) Each part of the invention, such as, the grooves in claim 2 and the radius in claim 11 should be designated by a referential character.

Applicant is respectfully urged to follow examples of proper drawings in the Guide for the Preparation of Patent Drawings available from the USPTO website www.uspto.gov. See MPEP 608.02.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet,

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even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of the objection above. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

7. The disclosure is objected to because of the following informalities: each part of the invention, such as, the grooves in claim 2 and the radius in claim 11 should be designated by a referential character. Appropriate correction is required.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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9. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms, such as, “can be fastened,” “can be rotated,” and “can be locked” in claim 1, “can be moved” in claim 3, “can be connected” in claim 12 are vague and indefinite in the sense that things which may be done are not required to be done. For example, in claim 1, the detent element *can be but is not structurally required to be* locked against elastic force. See “discardable” in *Mathis v. Hydro Air Industries*, 1 USPQ2d 1513, 1527 (D.C. Calif. 1986), “crimpable” in *Application of Collier*, 158 USPQ 266 (CCPA 1968), “removable” in *In re Burke Inc.*, 22 USPQ2d 1368, 1372 (D.C. Calif. 1992), and “comparable” in *Ex parte Anderson*, 21 USPQ2d 1241, 1249 (BPAI 1992).

It is unclear which structures define the claimed structures, such as, the grooves in claim 2 and the radius in claim 11. Applicant is respectfully urged to identify each claimed element with reference to the drawings.

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-12, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Lyotard (FR 2624470).

Regarding claim 1, Lyotard teaches a pedal system for bicycles comprising a shoe insert 1, which can be fastened on a shoe (shown by dashed lines, see Attachment hereinafter “Att.”)

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and has a detent element $1g^1$, $1g^2$ (FIG. 1) and a pedal 4, which can be fastened on the bicycle and can be rotated about an axis (Att.), and which pedal 4 has a seat 4c, 7 for the detent element $1g^1$, $1g^2$, in which seat said detent element $1g^1$, $1g^2$ can be locked against elastic force, and from which seat 4c, 7 same can be released by carrying out a rotating movement, wherein the seat 4c, 7 is formed between two seat parts 4c and 7, which are designed rotationally symmetrically with respect to the pedal axis (Att.), and which can be moved away from one another against elastic force in direction of the pedal axis (Att.).

Regarding claim 2, the seat parts 4c and 7 form or have receiving grooves 4e and 7c (Att.) facing one another.

Regarding claim 3, one (7) of the two seat parts 4c and 7 can be moved against the force of at least one spring (Att.).

Regarding claim 4, one of the seat parts is part of a first sleeve 4c, 4d which is supported rotatably with respect to the axis (Att.) of the pedal 4, and the other seat part 7 is part of a second sleeve 7, which is supported movably on the first sleeve 4c, 4d (FIG. 2).

Regarding claim 5, the first sleeve 4c, 4d is non-movable with respect to the axis (Att.) of the pedal 4, and the second sleeve 7 is the one, which can be moved against elastic force.

Regarding claim 6, at least one pressure spring (FIGS. 1 and 2, see Att.) is provided as the spring, which pressure spring is supported with its one end on an abutment connected to the sleeve 4c, 4d and with its second end on the second sleeve 7.

Regarding claim 7, the first sleeve 4c, 4d is supported rotatably by means of ball bearings CB on the axis part of the pedal 4.

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Regarding claim 8, the detent element $1g^1$, $1g^2$ is an elongated component which has a wedge-shaped designed area for positioning between the seat parts 4c, 4d and 7. See abstract.

Regarding claim 9, the detent element $1g^1$, $1g^2$ has side surfaces, which have in particular centrally each one cam 1f (FIGS. 5 and 6).

Regarding claim 10, the detent element $1g^1$, $1g^2$ is connected to a control element 1a which acts centeringly with respect to the seat of the pedal 4.

Regarding claim 11, the control element 1a has supporting wings (Att.) extending laterally of the detent element $1g^1$, $1g^2$, the insides of which supporting wings 1a (Att.) come into contact or are in contact with outer surface areas of the sleeves 4c, 4d and 7, which outer surface areas extend cylindrically and rotationally symmetrically with respect to the pedal axis (Att.), and are curved with a radius (at 1f in FIG. 4), which is smaller than the radius of the outer surfaces of the sleeves 4c and 7 as seen in FIG. 4.

Regarding claim 12, the control element 1 (Att.) can be connected to the shoe (Att.).

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Lin (spring 7) and Menayan (sleeves 110 and 112).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong (June 5, 2006)



Vinh T. Luong
Primary Examiner

ATTACHMENT

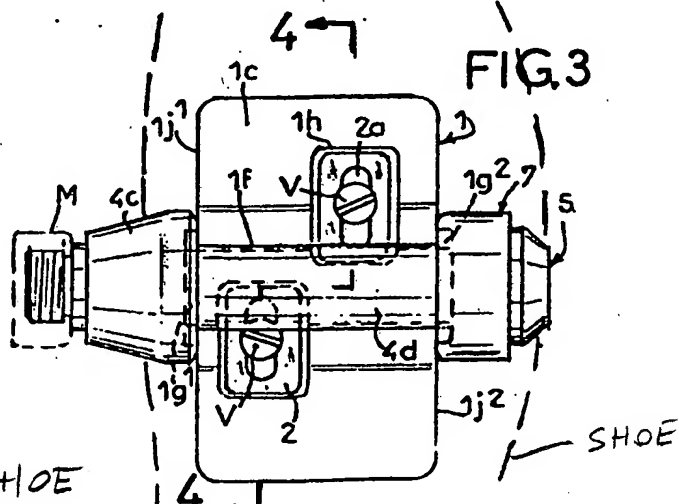
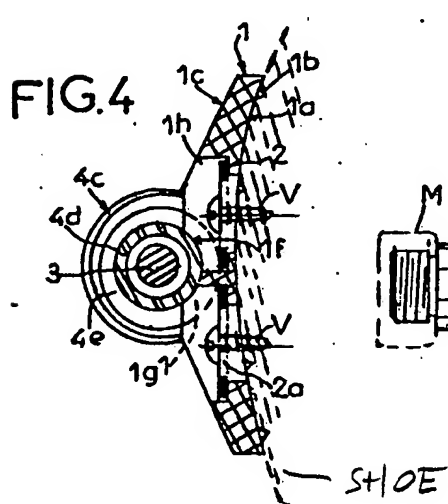
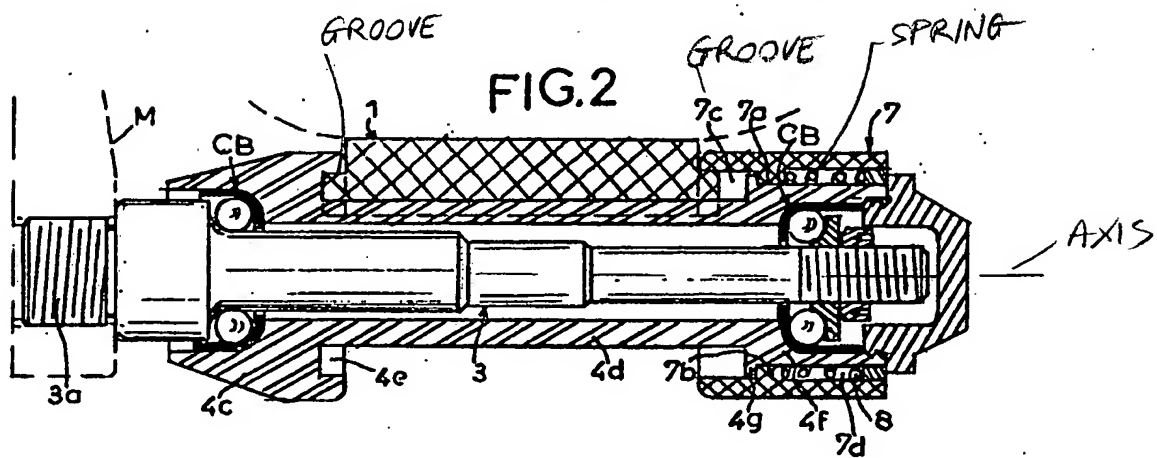
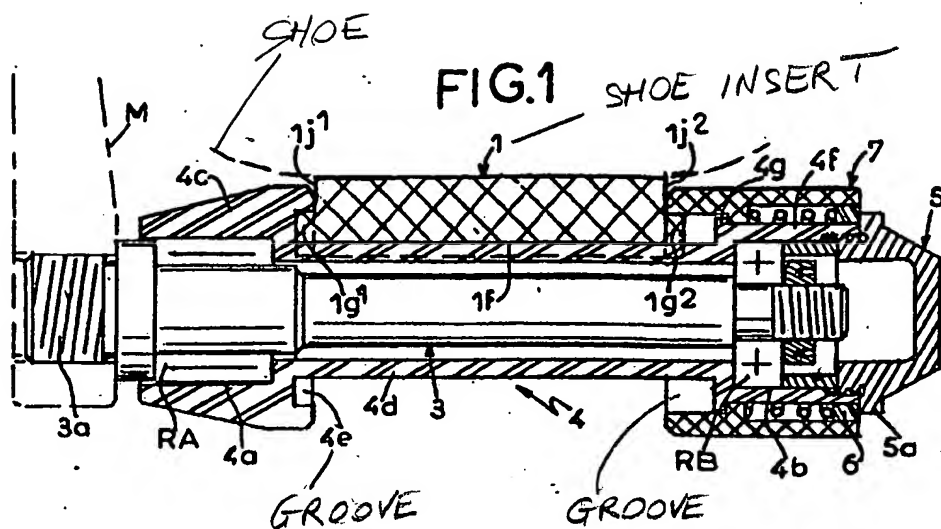


FIG.5

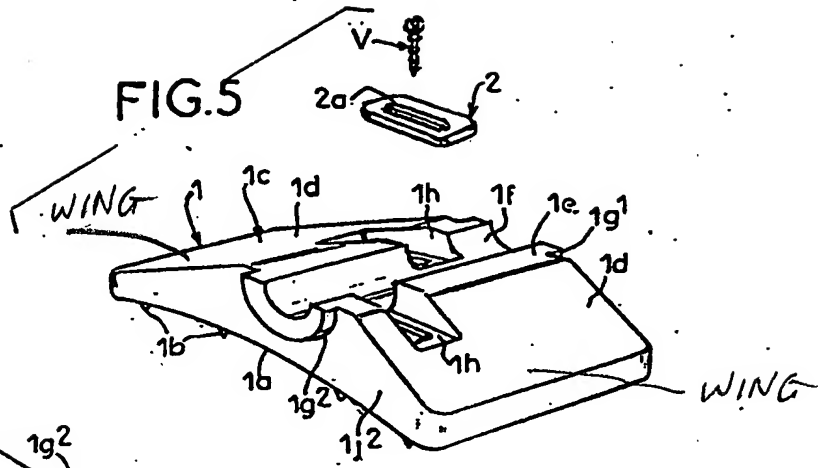


FIG.6

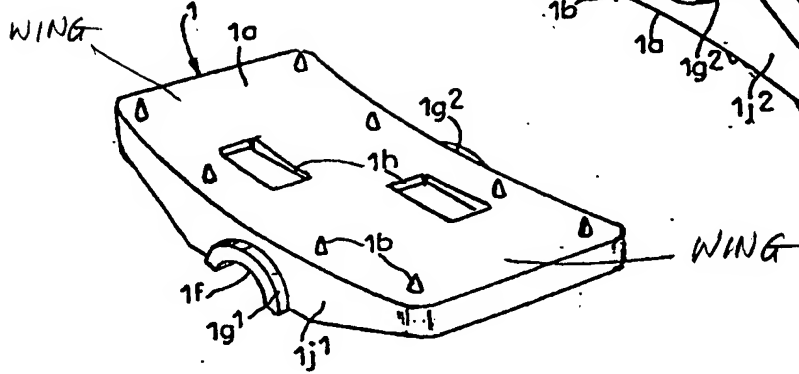


FIG.7

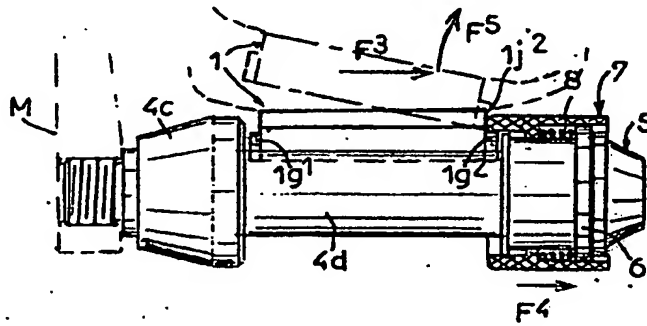


FIG.8

